

2:14-CV-24610

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA

FRANKLIN SHAYNE SHAMBLIN

D.O.C. # 33570

(Enter above the full name of the plaintiff
or plaintiffs in this action).

(Inmate Reg. # of each Plaintiff)

VERSUS

CIVIL ACTION NO. _____

CHASE FRAGALE

(Number to be assigned by Court)

GARY McDONALD

AARON SIMONTON

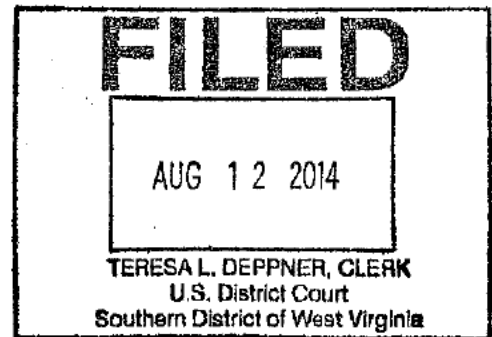
PAUL GORDON

KIETH BUTCHER

RUSSELL MASTON

ANNE THOMAS

(Enter above the full name of the defendant
or defendants in this action)



COMPLAINT

I. Previous Lawsuits

- A. Have you begun other lawsuits in state or federal court dealing with the same facts involved in this action or otherwise relating to your imprisonment?

Yes _____

No X _____

B. If your answer to A is yes, describe each lawsuit in the space below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same outline).

1. Parties to this previous lawsuit:

Plaintiffs: _____

Defendants: _____

2. Court (if federal court, name the district; if state court, name the county);

3. Docket Number: _____

4. Name of judge to whom case was assigned:

5. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?)

6. Approximate date of filing lawsuit: _____

7. Approximate date of disposition: _____

II. Place of Present Confinement: OHIO COUNTY CORRECTION CENTER

A. Is there a prisoner grievance procedure in this institution?

Yes X No _____

B. Did you present the facts relating to your complaint in the state prisoner grievance procedure?

Yes X No _____

C. If you answer is YES:

1. What steps did you take? GRIEVANCE PROCEDURE EXERCISED

AT ALL LEVELS, TO EXHAUSTION

2. What was the result? RELIEF SOUGHT DENIED

D. If your answer is NO, explain why not: N/A

III. Parties

(In item A below, place your name and inmate registration number in the first blank and place your present address in the second blank. Do the same for additional plaintiffs, if any.)

A. Name of Plaintiff: FRANKLIN SHAYNE SHAMBLEY #33570

Address: 1501 LOFF STREET, WHEELING W.VA. 26003

B. Additional Plaintiff(s) and Address(es): _____

(In item C below, place the full name of the defendant in the first blank, his/her official position in the second blank, and his/her place of employment in the third blank. Use item D for the names, positions, and places of employment of any additional defendants.)

C. Defendant: CHASE FRAGALE

is employed as: CORRECTION OFFICER II

at PARKERSBURG CORRECTION CENTER

D. Additional defendants: GARY McDONALD (CORPORAL PBCC), LT. AARON
SIMONTON (CHIEF OF SECURITY PBCC), PAUL GORDON (CORRECTIONAL
HEARINGS OFFICER - ST. MARY'S CORRECTION CENTER), KETH
BUTCHER (UNIT MANAGER PBCC), RUSSELL MASTON (DEPUTY WARDEN PBCC)
ANNE THOMAS (WARDEN PBCC)

IV. Statement of Claim

State here as briefly as possible the facts of your case. Describe how each defendant is involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, set forth each claim in a separate paragraph. (Use as much space as you need. Attach extra sheets if necessary.)

ON 29-APRIL-2014 WHILE HOUSED AT PARKERSBURG
CORRECTION CENTER, I WAS INSTRUCTED BY CORRECTIONAL
STAFF TO PROCEED TO CONTROL FOR A RANDOM URINALYSIS/
DRUGS SCREEN. AFTER PRODUCING A URINE SAMPLE FOR
TESTING AND WAITING THE 3 TO 5 MINUTE TESTING
PROCESS TO GIVE A RESULT I WAS FOUND TO HAVE
TESTED NEGATIVE FOR ALL SECTIONS OF THE TEST.
I WAS THEN GIVEN A BREATHALYZER IN WHICH THE

IV. Statement of Claim (continued):

RESULTS WERE ALSO OF NEGATIVE. THE DIVISION OF CORRECTIONS USES A TWO STEP URINALYSIS TESTING PROCEDURE IN WHICH STEP 1 IS OF A FIELD TEST IN WHICH IF THE TEST IS NEGATIVE THE SAMPLE IS TO BE DESTROYED, ONLY IF THE SAMPLE IS POSITIVE DOES IT PROCEED TO STEP 2 ANALYTICAL/CONFIRMATION TESTING. THE OFFICER CONDUCTING THE URINALYSIS THEN IN HIS RELENTLESS QUEST TO CHARGE ME WITH A RULE VIOLATION MADE A FAKE ENTRY INTO THE BOOK OF RECORD, HE

V. Relief

STATEMENT OF CLAIM
CONT. ON ADDITIONAL
SHEETS

State briefly exactly what you want the court to do for you. Make no legal arguments.
Cite no cases or statutes.

TERMINATION OF DEFENDANTS EMPLOYMENT,
COMPENSATION IN THE AMOUNT OF; TEN(S) OF
THOUSAND(S) OF DOLLARS.

IV. STATEMENT OF CLAIM (CONTINUED):

DOCUMENTED THE RESULTS OF THE TEST AS OF INCONCLUSIVE, THIS TO JUSTIFY SENDING THE SAMPLE TO THE LABORATORY FOR ANALYTICAL TESTING. THE SAMPLE WAS THEN SENT TO REDWOOD TOXICOLOGY FOR ANALYTICAL TESTING IN WHICH THE RESULT RETURNED WAS OF A NEGATIVE RESULT. I WAS THEN CHARGED WITH A CLASS I (ONE) RULE VIOLATION 1.19 USE AND POSSESSION OF DRUGS AND INTOXICANTS, TAKEN BEFORE THE CORRECTIONAL HEARING OFFICER ON 16-MAY-2014, ON 23-MAY-2014 I RECEIVED THE HEARING REPORT WITH THE FINDING BEING OF GUILTY. THE DISPOSITION OF SUCH FINDING BEING, 60 DAYS PUNITIVE SEGREGATION, 60 DAYS LOSS OF PRIVILEGES/SUSPENDED 180 DAYS PROBATION. THE NEGLIGENCE ACTIONS IVE FALLEN VICTIM TO IN THIS MATTER HAS PLACED UPON ME SEVERE CONSEQUENCES; I HAVE BEEN TRANSFERRED TO A MORE SECURE FACILITY, MY CLASSIFICATION LEVEL RAISED, RECOMMENDED PROGRAMING INTERRUPTED, LOSS OF WAGES, GREATLY JEOPARDIZES MY OPPORTUNITY AT BEING RELEASED ON PAROLE, MENTAL ANGUISH UPON MYSELF AND MY FAMILY.

IV. STATEMENT OF CLAIM (CONTINUED);

DEFENDANT #1; CO II CHASE FRAGALE, CONDUCTING OFFICER OF SAID URINALYSIS & CHARGING EMPLOYEE. CO II FRAGALE PERSONALLY COMMITTED AN ACT THAT HARMED ME

DEFENDANT #2; CORP. GARY McDONALD, SHIFT COMMANDER/SUPERVISING OFFICER OF DEFENDANT #1.

CORP. McDONALD HARMED ME IN FAILING TO DO SOMETHING HE SHOULD HAVE DONE AND OR WAS AWARE OF SOMEONES CONDUCT IN WHICH HARMED ME AND OR WENT ALONG WITH SAID CONDUCT IN SOME WAY.

DEFENDANT #3; LT. AARON SIMONTON (CHIEF OF SECURITY) LT. SIMONTON REVIEWED THE INCIDENT AND WAS AWARE OF THE INFRACTIONS COMMITTED BY DEFENDANT #1 AND WENT ALONG WITH SAID INFRACTIONS BY MAKING THE FINAL DECISION TO CHARGE ME WITH A RULE VIOLATION.

DEFENDANT #4; PAUL GORDON (CORRECTIONAL HEARING OFFICER) MR. GORDON CONDUCTED THE DISCIPLINARY HEARING IN WHICH THE FACTS WERE PRESENTED; NEGATIVE DRUG SCREEN, NEGATIVE BREATHALYZER AND NEGATIVE TOXICOLOGY REPORT THOUGH STILL RETURNED A GUILTY VERDICT FOR USE OF DRUGS & INTOXICANTS, FURTHER; MR. GORDON WAS AWARE OF DEFENDANT(S) 1, 2 & 3'S INFRACTIONS & WENT ALONG WITH IT.

DEFENDANT #5; KIEITH BUTCHER - UNIT MANAGER; THE SITUATION WAS BROUGHT TO MR. BUTCHER'S ATTENTION THROUGH INMATE GRIEVANCE PROCEDURE. MR. BUTCHER FAILED OR REFUSED

IV. STATEMENT OF CLAIM (CONTINUED)

TO ADDRESS THE SITUATION STATING SUCH ISSUES ARE TO BE AVAILED THROUGH THE APPEALS PROCESS EVEN THOUGH THE RELIEF SOUGHT IN THE GRIEVANCE WAS FOR THOSE INVOLVED BE HELD ACCOUNTABLE FOR THEIR ACTIONS, NEVER WAS IT ASKED THAT THE FINDING OF GUILT BE REVERSED IN THE GRIEVANCE.

DEFENDANT #6; RUSSELL MASTON, DEPUTY WARDEN; WAS FORWARDED THE INMATE GRIEVANCE AT THE 2ND LEVEL IN WHICH & WHEN UPHOLD THE DECISION OF DEFENDANT #5.

DEFENDANT #7; ANNE THOMAS, WARDEN; MS. THOMAS REVIEWED THE SITUATION, WAS AWARE OF THE CONDUCT OF THOSE UNDER HER SUPERVISION AND UPHOLD THEIR ACTIONS AND OR APPROVED OF SUCH! MS. THOMAS FAILED OR REFUSED TO PERFORM A DUTY REQUIRED OF HER IN WHICH CAUSED ME HARM.

V. Relief (continued)):

VII. Counsel

- A. If someone other than a lawyer is assisting you in preparing this case, state the person's name:

N/A

- B. Have you made any effort to contact a private lawyer to determine if he or she would represent you in this civil action?

Yes _____ No _____

If so, state the name(s) and address(es) of each lawyer contacted:

N/A

If not, state your reasons: N/A

- C. Have you previously had a lawyer representing you in a civil action in this court?

Yes _____ No X

If so, state the lawyer's name and address:

N/A

Signed this 4th day of AUGUST, 20 14.

Franklin Wayne Samblen

Signature of Plaintiff or Plaintiffs

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 4-AUG-2014
(Date)

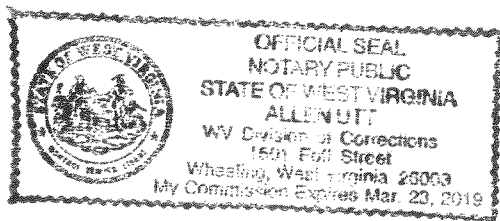
Franklin Samblen #33570
Signature of Movant/Plaintiff

Signature of Attorney
(if any)

CERTIFICATE OF SERVICE 2:14-CV-24610

I, Correctional Counselor II, Trista Rager, OF
THE FORGOING OFFENDER, FRANKLIN S. SHAMBLIN #33570,
DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF
THE ATTACHED DOCUMENT(S) WAS PLACED IN THE
U.S. MAIL AT THE O.C.C.C./NR.I.&C.F. POST OFFICE,
POSTAGE PREPAID, AND WAS ADDRESSED TO, CLERK,
UNITED STATES DISTRICT COURT, WHO'S ADDRESS IS
LISTED BELOW, THIS 6th DAY OF August, 2014.

CLERK, UNITED STATES DISTRICT COURT
P.O. Box 2546
CHARLESTON, W.VA.
25329



RESPECTFULLY SUBMITTED,
Franklin Shamblin

TAKEN, SWORN, AND SUBSCRIBED TO BEFORE ME,
THIS 6th DAY OF August, 2014.

MY COMMISSION EXPIRES; Mar 23, 2019

Allen Utt
NOTARY PUBLIC